

ORDER OF THE STATE PERSONNEL BOARD

PATRICK WARD,

Complainant,

vs.

DEPARTMENT OF NATURAL RESOURCES, DIVISION OF WILDLIFE,

Respondent.

This matter is before the Colorado State Personnel Board ("Board") at its regularly scheduled public session held on June 20, 2006. During this public session, the Board considered the record on appeal, including but not limited to:

1. Initial Decision of the Administrative Law Judge;
2. Respondent's Opening Brief on Appeal from the Initial Decision of the Administrative Law Judge;
3. Complainant's Answer Brief;
4. Complainant's Addendum to Ward's Answer Brief; and
5. Respondent's Reply Brief.

Based upon the Board's review and consideration,

IT IS HEREBY ORDERED that this matter is remanded to the Administrative Law Judge solely for legal analysis regarding the fifth prong of the test for a *prima facie* case of discrimination based on a disability, as enunciated in *Community Hospital v. Fail*, 969 P.2d 667 (Colo. 1998), including, if necessary, holding an evidentiary hearing and reopening discovery. The decision is to be issued within thirty days of the signing of this Order and, if appealed to the Board, is to be handled under the Board rules applicable to such appeals.

Dated this 22nd day of
June, 2006.



John Zakhem, Board Chair
State Personnel Board
633 17th Street, Suite 1320
Denver, Colorado 80202-3604

NOTICE OF APPEAL

Each party has the following rights:

1. To abide by this decision of the State Personnel Board; or
2. To appeal this decision to the Colorado Court of Appeals within 45 days pursuant to Section 24-4-106(11), C.R.S. (2005), as provided in Section 24-50-125.4(3), C.R.S. (2005).

In the event the decision is appealed, pursuant to Section 24-4-106(11)(b), C.R.S., the party filing the appeal with the Court of Appeals must serve the State Personnel Board with a copy of the Notice of Appeal at: 633 17th Street, Suite 1320, Denver, Colorado 80202-3604. In addition to serving the State Personnel Board with a copy of the Notice of Appeal, the party filing the appeal with the Court of Appeals must name the State Personnel Board as a party (appellee) to the appeal. Section 24-4-106(11)(d), C.R.S.

CERTIFICATE OF MAILING

This is to certify that on the 22nd day of June, 2006, I placed true copies of the foregoing **ORDER OF THE STATE PERSONNEL BOARD**, in the United States mail, postage prepaid, addressed as follows:

Patricia Cookson, Esquire
843 Rood Avenue
Denver, Colorado 81501

And via office mail:

Chris Puckett, Assistant Attorney General
Employment Section
1525 Sherman Street, Fifth Floor
Denver, Colorado 80203

